IN THE HIGH COUURT OF UTTARANCHL AT NAINITAL

WRIT PETITION NO. 3808 OF 2001 (M/S)
(Old No. 10249/1998)

1. State of U.P. through Executive Engineer, Public Works Department, Yamuna Colony, Dehradun.

2. Superintending Engineer, P.W.D. Yamuna Colony, Dehradun.

-----Petitioners.

Versus

1. Virendra Singh son of Sri Jaswant Singh, R/o village Dal Bichla Dhang, P.O. Hathnood Baba Salogi, district Paurigarhwal.

2. Presiding Officer, Labour Court, Uttar Pradesh Dehradun.

-----Respondents

Standing Counsel for petitioners.
Chief Standing Counsel for respondent no.2.

Dated : April 17, 2006.
HON'BLE RAJESH TANDON, J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the award dated 24.06.1997 passed by respondent No.2.

Briefly stated, a reference under section 4-K of U.P. Industrial Disputes Act was made for adjudication before the Labour Court as to whether the termination of the service of the employee on 25.06.1993 was valid or not.

After the reference was made by the State Government, both the parties have filed their written statements. According to the case of the

respondent No. 1 he worked under the establishment of the petitioner with effect from 06.12.1985 as Beldar on regular basis. However, without any prior notice he was removed from service on 25.06.1993 in violation of Section 6-N of U.P. Industrial Disputes Act.

Labour Court vide his order dated 24.06.1997 allowed the reference. The Labour Court has come to the conclusion that the respondent No.1, employee concerned, has worked for more than 240 days right from 06.12.1985 and, as such, his services could not have been dispensed with without compliance of Section 6-N of U.P. Industrial Disputes Act.

Standing Counsel has raised two arguments, (1) that the employee, respondent no.1 has worked in another organization and, as such, the respondent has no cause of action to file the present reference and (2) that the respondent No.1 is not entitled for the full back wages.

At the time of filing of the writ petition the stay order was granted subject to the following conditions:

"Meanwhile it is provided that in case the petitioner pays to the respondent No.1 workman his wages at the rate of wage last drawn by him and continue to pay the same from the date of filing of the writ petition, the award shall remain stayed."

Considering the facts and circumstances, the Labour Court has recorded a finding that the reference can not be rejected on account of the technicalities and has found that the respondent No.1 has worked for more than 240 days and, as such, the termination of the petitioner was in violation of Section 6N of U.P. Industrial Disputes Act.

With regard to the first submission of the petitioner regarding the maintainability of the reference, I do not find any merit in the submission of the petitioners.

Learned counsel for the petitioners has contended that the claim petition has been filed after a period of more than 2 years and, as such, the same is not maintainable as it is highly belated. In my opinion, no interference is called for having regard to the facts and circumstances of the case and I hold that the Labour Court has rightly moulded

the award to the extent of Rs. 1000/- towards expenses of litigation in lieu of the back wages to respondent No.1 on account of the delay in filing the claim petition.

Writ Petition is devoid of merit and is dismissed. No order as to costs.

(Rajesh Tandon, J)

17.04.2006.
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